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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 DARNELL McGARY,

12 Petitioner,

13 v.

14 HENRY RICHARD,

15 Respondent.

16 Case No. C05-5317RBL

17 ORDER ADOPTING REPORT
18 AND RECOMMENDATION

19 The Court having reviewed the Report and Recommendation of the Hon. J. Kelley Arnold
20 United States Magistrate Judge, objections to the Report and Recommendation, if any, and the
21 remaining record, does hereby find and Order:

- 22 (1) The Court adopts the Report and Recommendation;
23 (2) The petition is **DISMISSED WITHOUT PREJUDICE** for the reasons set forth in
24 the Report and Recommendation.
25 (3) The clerk is directed to send copies of this Order to Petitioner and to the Hon. J.
26 Kelley Arnold.

27 DATED this 29th day of September, 2005.

28 
29 RONALD B. LEIGHTON
30 UNITED STATES DISTRICT JUDGE

31 ORDER - 1